

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of)  
VOICECOM TELECOMMUNICATIONS, LLC )  
For a Certificate of Authority to )  
Provide Resold Long Distance )  
Telecommunications Services Within )  
the State of Hawaii. )  
\_\_\_\_\_ )

DOCKET NO. 05-0173

DECISION AND ORDER NO. 22255

DIV. OF CONSUMER ADVOCACY  
DEPT. OF COMMERCE AND  
CONSUMER AFFAIRS  
STATE OF HAWAII

2006 FEB -3 A 8:06

RECEIVED

Filed Feb. 1, 2006  
At 1:45 o'clock P.M.

Karen Higashi  
Chief Clerk of the Commission

ATTEST: A True Copy  
KAREN HIGASHI  
Chief Clerk, Public Utilities  
Commission, State of Hawaii.

K. Higashi

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

In the Matter of the Application of )  
 )  
 VOICECOM TELECOMMUNICATIONS, LLC )  
 )  
 For a Certificate of Authority to )  
 Provide Resold Long Distance )  
 Telecommunications Services Within )  
 the State of Hawaii. )  
 \_\_\_\_\_ )

Docket No. 05-0173

Decision and Order No. 22255

DECISION AND ORDER

By this Decision and Order, the commission grants VOICECOM TELECOMMUNICATIONS, LLC ("Applicant" or "Voicecom") a certificate of authority ("COA") to provide intrastate telecommunications services within the State of Hawaii ("State") as a reseller and to provide other telecommunications services as described in its Application,<sup>1</sup> subject to certain conditions, as described herein.

I.

Background

Applicant is a Delaware limited liability company authorized to conduct business in the State as a foreign limited

---

<sup>1</sup>Application, Verification, Exhibits A - E, and Certificate of Service, filed on July 12, 2005 (collectively, the "Application"). Exhibit E consists of Voicecom's audited financial statements for the years ending December 31, 2004 and December 31, 2003. Applicant requests a certificate of public convenience and necessity ("CPCN"). The commission, on its own motion, converts Voicecom's Application to a request for COA, consistent with Hawaii Administrative Rules ("HAR") §§ 6-80-17 and 6-80-18. See footnote 4, below.

liability company. It is a wholly-owned subsidiary of Voicecom Telecommunications, Inc., a Delaware corporation.

On July 12, 2005, Applicant filed its Application seeking a COA to provide telecommunications services in the State, pursuant to Hawaii Revised Statutes ("HRS") § 269-7.5 and HAR §§ 6-80-17 and 6-80-18.<sup>2</sup> Applicant seeks to offer and provide intrastate, long distance telecommunications services on a resold basis to residential and business subscribers utilizing calling card and toll-free services, the latter service known as Voicecom's Personal Assistant Service. With the exception of its pre-paid calling card service, Applicant intends to bill its customers directly for intrastate, long distance telecommunications resale services.

On January 17, 2005, the Consumer Advocate filed its Statement of Position, informing the commission that it does not object to the approval of the Application, subject to two (2) revisions to Applicant's proposed tariff.<sup>3</sup> On January 25, 2006, Applicant filed its revised proposed tariff, incorporating the Consumer Advocate's two (2) noted revisions.

---

<sup>2</sup>Applicant served copies of its Application upon the Department of Commerce and Consumer Affairs, Division of Consumer Advocacy ("Consumer Advocate").

<sup>3</sup>The Consumer Advocate states that Applicant should file a copy of its updated, unaudited financial statement, consistent with HAR § 6-80-17(c)(1)(E). On July 29, 2006, Applicant submitted copies of its updated, unaudited financial statement with the commission. Because Applicant inadvertently did not serve copies of its updated, unaudited financial statement upon the Consumer Advocate, the commission, by letter dated January 18, 2006, provided a courtesy copy to the Consumer Advocate.

## II.

### Discussion

HRS § 269-7.5 prohibits a public utility from commencing business in the State without first obtaining a certificate of public convenience and necessity ("CPCN") from the commission.<sup>4</sup> HAR § 6-80-18(a) states that:

The commission shall issue a certificate of authority to any qualified applicant, authorizing the whole or any part of the telecommunications service covered by the application, if it finds that:

- (1) The applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed telecommunications service in the State;
- (2) The applicant is fit, willing, and able to properly perform the proposed telecommunications service and to conform to the terms, conditions, and rules prescribed or adopted by the commission; and
- (3) The proposed telecommunications service is, or will be, in the public interest.

HAR § 6-80-18(a).

Having reviewed the record, the commission makes the following findings pursuant to HAR § 6-80-18(a):

1. Applicant possesses sufficient technical, financial, and managerial resources and abilities to provide the proposed services, as evidenced by the financial statements and resumes of its management team submitted in support of its

---

<sup>4</sup>On June 3, 1996, HAR chapter 6-80 took effect. HAR chapter 6-80 replaces the CPCN with a COA for telecommunications carriers, and establishes procedures for requesting and issuing a COA.

Application, and its representation that it "has not been denied authority to provide intrastate, long distance telecommunications service by any state regulatory authority."<sup>5</sup>

2. Applicant is fit, willing, and able to properly perform the telecommunications services and to conform to the terms, conditions, and rules prescribed or adopted by the commission, as evidenced by the representations in its Application. Moreover, the commission's grant of a COA to Applicant to provide the proposed services will be conditioned upon Applicant's conformity to the terms, conditions, and rules prescribed or adopted by the commission as discussed below.

3. Applicant's proposed telecommunications services are in the public interest. The commission recognizes that additional service providers in the industry increase competition and provide the consumer with options in Hawaii's telecommunications market. As noted by the Consumer Advocate, Applicant's proposed services are in the public interest as "the introduction of effective competition in the telecommunications industry is desirable to achieve certain benefits that would not be present in a monopolistic environment."<sup>6</sup>

Based on the foregoing, the commission grants Applicant a COA to provide intrastate telecommunications services within the State as a reseller and to provide other telecommunications services as described in its Application.

---

<sup>5</sup>Voicecom's Application, at 4.

<sup>6</sup>Consumer Advocate's Statement of Position, at 4.

Based on the commission's review of the proposed revised tariff, Applicant should revise its proposed tariff as follows:

1. *Original Page 7, Introduction* - Include a statement clearly stating that in the event of a conflict between any of Voicecom's tariff provisions (including provisions governing the duty to defend, indemnification, hold harmless, and limitation of liability) and State of Hawaii law, State of Hawaii law shall prevail.<sup>7</sup>
2. *Original Page 28, Section 2.22* -- Revise this section as necessary, consistent with HAR § 6-80-103(b), governing adjustments for out of service conditions.
3. *Original Page 37, Section 4.2* -- Revise this section to clarify that the finance charge is assessed on the unpaid balance that is not in dispute. See HAR § 6-80-102(a).

### III.

#### Orders

##### THE COMMISSION ORDERS:

1. Applicant is granted a COA to provide intrastate telecommunications services in the State as a reseller and to provide other telecommunications services as described in its Application.

---

<sup>7</sup>The Severability provision of Applicant's proposed initial tariff (Original Page 30, Section 2.28) states:

#### Full Force and Effect

Should any provision or portion of this Tariff be held by a court or administrative agency of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions of this Tariff will remain in full force and effect.

2. As the holder of a COA, Applicant shall be subject to all applicable provisions of HRS chapter 269; HAR chapters 6-80 and 6-81; any other applicable State laws and commission rules; and any orders that the commission may issue from time to time.

3. Applicant shall file its tariffs in accordance with HAR §§ 6-80-39 and 6-80-40. Applicant's tariffs shall comply with the provisions of HAR chapter 6-80. In the event of a conflict between any tariff provision and State law, State law shall prevail.

4. Applicant shall: (A) conform its initial tariff to the applicable provisions of HAR chapter 6-80, by, among other things, incorporating the tariff revisions set forth in Section II of this Decision and Order. An original and eight (8) copies of the initial tariff, with the noted revisions, shall be filed with the commission, and two (2) additional copies shall be served on the Consumer Advocate. Applicant shall ensure that the appropriate issued and effective dates are reflected in its tariffs.

5. Within thirty (30) days from the date of this Decision and Order, Applicant shall pay a public utility fee of \$60, pursuant to HRS § 269-30. The business check shall be made payable to the Hawaii Public Utilities Commission, and sent to the commission's office at 465 S. King Street #103, Honolulu, HI, 96813.

6. Within thirty (30) days from the date of this Decision and Order, Applicant shall also pay a telecommunications relay service ("TRS") contribution of \$10, established pursuant to: (A) HRS § 269-16.6; and (B) Decision and Order No. 21847, filed on May 31, 2005, in Docket No. 05-0088. (A copy of Decision and Order No. 21847 is attached hereto as Exhibit 1.) The business check shall be made payable to "Hawaii TRS", and sent to the Hawaii TRS Administrator, NECA Services, Inc., 80 S. Jefferson Road, Whippany, NJ 07981. Written proof of payment shall be sent to the commission.

7. Applicant's failure to comply with the requirements set forth in paragraphs 3 to 6, above, constitutes cause to void this Decision and Order, and may result in further regulatory action as authorized by law.

DONE at Honolulu, Hawaii FEB - 1 2006.

PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By Carlito P. Caliboso  
Carlito P. Caliboso, Chairman

(EXCUSED)  
By \_\_\_\_\_  
Wayne H. Kimura, Commissioner

APPROVED AS TO FORM:

Michael Azama  
Michael Azama  
Commission Counsel

By Janet E. Kawelo  
Janet E. Kawelo, Commissioner

05-0173.cs



BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
 )  
PUBLIC UTILITIES COMMISSION )  
 )  
Instituting an Investigation )  
into the Carrier Contribution )  
Factor and Telecommunications )  
Relay Services Fund Size for )  
the period of July 1, 2005 )  
through June 30, 2006. )  
\_\_\_\_\_ )

DOCKET NO. 05-0088

DECISION AND ORDER NO. 21847

Filed May 31, 2005  
At 10 o'clock A.M.

Karon Higuchi  
Chief Clerk of the Commission

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

----- In the Matter of ----- )  
 )  
PUBLIC UTILITIES COMMISSION )  
 )  
Instituting an Investigation )  
into the Carrier Contribution )  
Factor and Telecommunications )  
Relay Services Fund Size for )  
the period of July 1, 2005 )  
through June 30, 2006. )  
\_\_\_\_\_ )

Docket No. 05-0088

Decision and Order No. 21847

DECISION AND ORDER

By this Order, the commission: establishes the Telecommunications Relay Services ("TRS") carrier contribution factor for the period July 1, 2005 to June 30, 2006 (the "Period"), at 0.0010, and establishes the projected TRS fund size for the Period, at approximately \$680,000.

I.

Background

By Order No. 21730, filed on April 12, 2005, ("Order No. 21370") the commission initiated the instant proceeding to examine whether to modify the TRS carrier contribution factor and fund size for the Period, established in accordance with Order No. 20193, filed on May 23, 2003, in

Docket No. 03-0058 ("Order No. 20193").<sup>1</sup> Specifically, in Order No. 21370, the commission proposed to continue the existing carrier contribution factor of .0010, established by Order No. 21049, filed on April 15, 2004, in Docket No. 04-0070. The commission also proposed to keep the projected TRS fund size, for the Period, at approximately \$680,000.

The commission served copies of Order No. 21730 on The Division of Consumer Advocacy, Department of Commerce and Consumer Affairs ("Consumer Advocate") and Sprint, the parties to this proceeding, and mailed copies of Order No. 21730 to all chartered, certificated and registered telecommunications carriers, except payphone providers, at their mailing addresses on file with the commission to solicit written comments. Written comments to the proposals were accepted until May 6, 2005. As of the date of this Order, no written comments were filed with the commission on any of the commission's proposals.

## II.

### Background

On May 23, 2003, the commission issued Order No. 20193, in Docket No. 03-0058 which, among other things, ordered: (1) every telecommunications carrier providing intrastate telecommunications service in the State of Hawaii to contract

---

<sup>1</sup>In Docket No. 03-0058, the commission selected SPRINT COMMUNICATIONS CO., LP ("Sprint") as the exclusive provider of intrastate TRS within the State of Hawaii ("State of Hawaii") from July 1, 2003 to June 30, 2006. See Decision and Order No. 20163, filed on April 30 2003. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058.

with Sprint for the provision of telecommunications relay service, for the period beginning July 1, 2003 to June 30, 2006; (2) every carrier providing intrastate telecommunications service in Hawaii shall contribute to the TRS fund on the basis of gross operating revenues from the retail provision of intrastate telecommunications services during the preceding calendar year, consistent with the terms of Order No. 20193<sup>2</sup>; (3) contributors' contribution to the TRS fund shall be the product of their gross operating revenue from the retail provision of intrastate telecommunications services during the preceding calendar year, which is subject to investigation by the commission, and a contribution factor determined annually by the commission, consistent with the terms of Order No. 20193; and (4) the annual TRS funding period commences July 1 and ends June 30 of each year.

### III.

#### Discussion

The Commission received no comments or objections to the proposals in Order No. 21730. Upon review, the commission finds the proposals in Order No. 21730 to be reasonable and in the public interest. Accordingly, the carrier contribution factor for the Period shall be 0.0010 and the projected TRS fund size, for the Period shall be established at approximately \$680,000.

---

<sup>2</sup>The commission specifically excluded payphone providers from contributing to the TRS fund.

III.

Orders

THE COMMISSION ORDERS:

1. The contribution factor for the Period (July 1, 2005 to June 30, 2006) shall be 0.0010. The projected TRS fund size, for the Period, shall be approximately \$680,000.

2. Each carrier shall complete and submit a TRS Reporting Worksheet, attached to this Order as Exhibit "A".

3. Annual contributions are due July 26<sup>th</sup>; carriers who owe contributions \$1,200 or more may pay in twelve equal monthly installments, due on the 26<sup>th</sup> of each month, provided that they submit their TRS Reporting Worksheet by July 26<sup>th</sup>.


4. Carriers reporting \$10,000 or less in gross intrastate retail revenues shall contribute at least \$10.00 for the period July 1, 2005 to June 30, 2006.

5. Every carrier, except Commercial Mobile Radio Service ("CMRS") providers, shall comply with the 30-day notice requirement of HRS § 269-16(b) and HAR § 6-80-40(b) for any TRS surcharge imposed on its customers, both residential and business, to recover the amount of its contribution. CMRS providers shall place information on their TRS surcharges on their websites, consistent with Decision and Order No. 20890, filed on April 7, 2004, in Docket No. 03-0186.

6. Order No. 20193, filed on May 23, 2003, in Docket No. 03-0058, is amended consistent with the terms and conditions of this decision and order. In all other respects, Order No. 20193 remains unchanged.

DONE at Honolulu, Hawaii MAY 31 2005.


PUBLIC UTILITIES COMMISSION  
OF THE STATE OF HAWAII

By   
Carlito P. Caliboso, Chairman

By (EXCUSED)  
Wayne H. Kimura, Commissioner

By   
Janet E. Kawelo, Commissioner

APPROVED AS TO FORM:

  
Kevin M. Katsura  
Commission Counsel

05-0088.ah

**State of Hawaii**  
**Public Utilities Commission**  
**Telecommunications Relay Services**  
**Carrier Remittance Worksheet**  
**For the Period July 1, 20\_\_ - June 30, 20\_\_**

SECTION A	CARRIER IDENTIFICATION
Date:	
Company Name:	
Mailing Address:	
Email Address:	

SECTION B	REMITTANCE CALCULATION
1. Gross Revenues (Based on Prior Calendar Year) <small>(e.g., Current year is 20X2; Report revenues from 20X1)  (Amount should match gross revenues reported for Hawaii PUC Fee purposes, HRS § 269-30)</small>	
2. Less: Revenue Adjustments (describe, see Section E)	< _____ >
3. Gross Intrastate Retail Revenues	
4. Hawaii TRS Contribution Factor	<b>.001</b>
5. Gross Hawaii TRS Assessment (line 3 x line 4)	
6. Greater of line 5 or \$10.00 (minimum due)	
<p>If Line 6 is less than \$1,200, this is your annual contribution to the TRS Fund for the period beginning July 1<sup>st</sup> of the current year to June 30<sup>th</sup> of the following year. Please pay the amount on line 6, in full, by July 26<sup>th</sup> of the current year. Send your remittance with a copy of this worksheet to the address listed below.</p> <p>If Line 6 is \$1,200 or more, continue to line 7 below.</p>	

SECTION C	MONTHLY CONTRIBUTION
7. Divide line 6 by 12	
<p>Line 7 is your first monthly contribution to the TRS Fund, for the period beginning July 1<sup>st</sup> of the current year to June 30<sup>th</sup> of the following year. Send your 1<sup>st</sup> monthly remittance with a copy of this worksheet to the address listed below. Please pay the amount on line 7 by July 26<sup>th</sup>. NECA Services, Inc. will then send you a bill for the remaining eleven monthly payments.</p>	

SECTION D	CERTIFICATION
<p>Under penalties as provided by law, I certify that I am duly authorized to verify the foregoing information contained herein and that the information is true and correct to the best of my knowledge and belief.</p>	
Date	Officer Name
Date	Contact Name
Officer Signature	Officer Title
Contact Phone	Contact Title

<p style="text-align: center;"><b>Questions???</b></p> <p style="text-align: center;"><b>Hawaii TRS Administrator</b>  NECA Services, Inc.  80 S. Jefferson Road  Whippany, NJ 07981  Phone (973) 884-8011  Fax (973) 599-6504</p>	<p style="text-align: center;"><b>Make checks payable to</b>  <b>"Hawaii TRS"</b>  <b>and send with worksheet to:</b>  Attn: Hawaii TRS Administrator  NECA Services, Inc.  80 S. Jefferson Road  Whippany, NJ 07981</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

**SECTION E DETAILS CONCERNING REVENUE ADJUSTMENT(S)**

If revenue adjustment(s) are not explained here, amounts deducted will be disallowed and proposed assessments may be prepared against you.

Describe amounts deducted from Gross Revenues to obtain Gross Intrastate Retail Revenues (list):	Amount
1.	
2.	
3.	
4.	
5.	
6.	
7.	
8.	
9.	
10.	
TOTAL	

Exhibit "A"

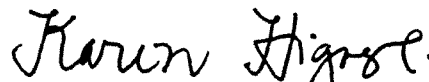


CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 21847 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

MAGGIE SCHOOLAR  
GOVERNMENT ACCOUNT EXECUTIVE  
SPRINT COMMUNICATIONS  
1321 Rutherford Lane, Suite 120  
Austin, TX 78753



Karen Higashi

DATED: MAY 31 2005

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing Decision and Order No. 22255 upon the following parties, by causing a copy hereof to be mailed, postage prepaid, and properly addressed to each such party.

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS  
DIVISION OF CONSUMER ADVOCACY  
P. O. Box 541  
Honolulu, HI 96809

DAN MELL  
CHIEF FINANCIAL OFFICER  
VOICECOM TELECOMMUNICATIONS, LLC  
5900 Windward Parkway, Suite 500  
Alpharetta, GA 30005

CHARLES A. HUDAK, ESQ.  
FRIEND, HUDAK & HARRIS, LLP  
Three Ravinia Drive, Suite 1450  
Atlanta, GA 30346-2131

Counsel for VOICECOM TELECOMMUNICATIONS, LLC

  
\_\_\_\_\_  
Karen Higashi

DATED: FEB - 1 2006